



BY THE COURT:

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/s/ Arnold C. Rapoport  
ARNOLD C. RAPOPORT,  
United States Magistrate Judge

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(Continuation of footnote 1):

foundation about Buckley's background, and foundation to authenticate documents authored by Buckley. To support its position Defendant relies on the case of Grider v. Keystone Health Plan Central, Inc., No. 05-MC-40, 2005 WL 2030456, at \*7 (M.D. Pa. July 28, 2005) (Kane, J.), a case which we find persuasive.

Similar to the holding of United States District Judge Yvette Kane in Grider, we find that Delaware and Buckley have failed to demonstrate that Buckley's deposition is likely to focus on his allegedly expert opinions regarding the underlying action pending in the United States District Court for the Eastern District of Wisconsin. Grider, 2005 WL 2030456, at \*7. The above noted areas of inquiry appear to be solely related to Buckley's knowledge of factual issues regarding the underlying action. To the extent that Heartland's questions at the deposition seek expert opinions rather than facts, Buckley's counsel may object or take whatever steps he deems necessary to protect his clients' interests. Accordingly, because it does not appear from the face of the pleadings that Heartland intends to depose Buckley as anything other than a fact witness, we do not find it necessary to quash or modify the subpoena pursuant to Rule 45(c) (3) (B) (ii).